

Which Equalities Matter? The Place of Affective Equality in Egalitarian Thinking

There is a deep ambivalence in Western society about caring and loving generally (hooks, 2000). This ambivalence has found expression in the academy. In both liberal and radical egalitarian traditions, love and care have for the most part been treated as private matters, personal affairs, not subjects of sufficient political importance to be mainstreamed in theory or empirical investigations, while the subject of solidarity is given limited research attention. Sociological, economic, legal and political thought has focused on the public sphere, the outer spaces of life, indifferent to the fact that none of these can function without the care institutions of society (Fineman, 2004; Sevenhuijsen, 1998; Tronto, 1993). Within classical economics and sociology in particular there has been a core assumption that the prototypical human being is a self-sufficient rational economic man (*sic*) (Folbre, 1994; Folbre and Bittman, 2004). There has been little serious account taken of the reality of dependency for all human beings, both in childhood and at times of illness and infirmity (Badgett and Folbre, 1999). That fact generates two very important forms of inequality: inequality in the degree to which people's needs for love and care are satisfied, and inequality in the work that goes into satisfying them. These are the core of what we call 'affective inequality'.

In *Equality: From Theory to Action* (Baker, et al., 2004: 57-72) we tried to address the affective equality deficit. We identified four major social systems within and through which equality and inequality can be produced, namely, the economic, the political, the socio-cultural and the affective. We argued that the four sets of social

relations endemic to these systems are central to the organisation of any society, and thereby exercise an extremely powerful role in determining the levels of inequality in a given society. Of these four systems, the affective system, which is concerned with providing and sustaining relationships of love, care and solidarity, has received the least analysis. The aim of this book is to make a contribution to that analysis. The point of this chapter is to provide a sense of how the affective system, and inequality within it, have been treated by the ‘social’ sciences, particularly sociology and education, and by economics, law and political theory. Obviously each of these fields is too vast to be fully surveyed in one chapter, but what we hope to do here is to illustrate the relative neglect and general biases that have characterised mainstream work in these disciplines as well as some of the contributions recent scholarship has started to make.

Affective Inequality in Sociology, Education and Related Disciplines

The importance social scientists attribute to economic, political and cultural relations in generating inequality is predictable in social scientific terms. Both Marx and Weber agreed that it was within the economy that basic material inequalities in wealth and income are generated (although they clearly differed in how they interpreted the operation of class relations within it, and the role they attributed to the economy in determining other inequalities). In addition, Weber, and scholars in the Weberian tradition, have shown how cultural and political systems operate in many ways relatively independently of the economy, and at times generate discrete forms of inequality.¹

Talcott Parsons, working within a Durkheimian, structural functionalist perspective, also attributed primacy to the economy, the polity and culture. Neither Marxist, functionalist

nor Weberian social scientists identified any major role for the affective system of social relations independent of the economy, polity or status order. The affective domain was defined as being dependent on other social systems; it was regarded as a by-product of economic, political and cultural action, not an autonomous site or field of social behaviour. Moreover, because it was defined as a private, highly feminised and emotionally-driven sphere, it was not seen as a priority subject for social scientific investigation.

The subordination of the affective domain found expression in the hierarchically organised division of labour within the social sciences. Social work, social policy and social care research did address issues of care but this work lacked the status of research focused on the economy, culture or politics.² In the policy field, research on care gained most credence when it was focused on the interface between the public and the private sphere, most especially where it focused on the relationship between care and the state. Thus, the relationship between unpaid informal care and the welfare state was a major theme in social policy research on care throughout the 1970s (Williams, 2001: 475-8). Due to the growing influence of feminist scholarship within established disciplines in the 1980s, social science research began to pay attention to gender relations within caring and in particular to the role of women as carers (Finch and Groves, 1983; Waerness, 1987). The work of Graham (1983) and of Gilligan (1982) purported to highlight differences in women's and men's sense of social and moral identities and how each of these interfaced with care, while Finch (1989) focused attention on the normative structures that impacted on care work. The rise of the disability movement generated a critique of the dependency narratives in care discourses in the 1990s. The unequal power

relations between the providers and recipients of care was a major subject of research among disability studies scholars including Oliver (1990), Finkelstein (1991), Morris (1993) and Oliver and Barnes (1991).

The role of the state in determining the dynamics of care provision never left the policy frame however. As state investment in public services and welfare supports was challenged with the emergence of neo-liberal policies from the early 1990s onwards, there was a renewed focus on the role of the state, including its role in determining relations of care and gender (Daly, 2000, 2002, 2003, 2005; Glendinning and Millar, 1992; Liera, 1992; O'Connor et al., 1999; Ungerson, 1993, 1995, 2000). The gendered character of care was increasingly recognised in social policy therefore, albeit often through a state lens.

Sociology

Mainstream sociology was and is more male-dominated than social policy and social care research. The primary focus of sociology has always been on matters in the public sphere; it is a highly gendered discipline (Smyth 1987) although it is also a discipline that feminists recognise for its contribution to the development of feminist thought (Jackson, 1999). The dominance of the so-called 'founding fathers' (Marx, Durkheim and Weber) in the early phases of sociological thinking was replicated at the end of the twentieth century with the emergence of a new set of male leaders: Bourdieu reinterpreted Marx, Parsons followed in Durkheim's footsteps, while Randall Collins, Goldthorpe and Giddens, among others, were closely aligned with the Weberian tradition.

The 'fathers' of sociological thought in each generation imposed (often unwittingly) a male cultural arbitrary³ on alternative voices, be these female, disabled,

ethnic or from some other minority. The net effect was that certain questions were not asked, or if asked, not taken seriously, in sociology (Oakley, 1989). The deference to the male voice meant that the worlds that women controlled and inhabited in a way that men do not, the care world in particular, were interpreted through a patriarchal lens. This practice was exemplified in the sociology of the family, where power inequalities within households and the unequal division of care and other forms of domestic labour were largely unproblematised in early work (see Parsons, 1956 and Hannan and Katsiaouni, 1977 for two different examples). There was a deep symbolic violation of the feminine in this practice although it went largely unnoticed until pro-feminist scholarship began to challenge the received wisdoms of mainstream sociology (Oakley, 1976; Connell, 1987; Delphy and Leonard, 1992).⁴

The emergence of postmodernist thinking with the work of Foucault in particular did break up the coherence of the sociological framework; it focused attention on issues of power and its operation and circulation in cultural spaces. While it did not open up issues of affective relations in particular, it did create a space for challenging the grand narratives of social scientific thought, including the grand narratives that had trivialised affective relations and the emotional work within them.

Influenced by the publication of Foucault's work in English (*The Birth of the Clinic*, 1973; *Discipline and Punish*, 1977; *The History of Sexuality*, 1978), sociological research expressed growing interest in the human body and mind as sites of disciplinary control at the end of the twentieth century. The ways in which the disciplinary technologies of the state and other powerful social institutions were employed to monitor, shape and control human consciousness generated an interest in the sociology of the

emotions, which is closely linked to the affective system because so many emotions are embedded in relations of love, care and solidarity or their opposites. Research on the affective domain gained increasing recognition in sociological thinking in the late twentieth century (Barbalet, 2002; Hochschild, 1983, 1989; James et al., 1996; Kemper, 1990; TenHouten, 2007). Scholars such as Reay (2000), Sennett and Cobb (1977) and Skeggs (2004) have documented the ways in which social class inequalities are not only experienced economically but also emotionally, as social judgements on tastes, lifestyle and values. Sayer (2005) has linked the lack of attention given to normative issues in the social sciences to the failure to investigate the emotional impact of injustices, particularly the way social class injustices are experienced as negative moral judgements.

While the opening up of the emotions and emotional work to social scientific investigation has been a significant development in the social sciences, it cannot easily undo the neglect of affective relations as a fit subject of research over extended periods of history. Connell (1995, 2002) and Kimmel (2005) have documented how the neglect of the affective domain has contributed to the lack of research on masculine identities and hegemonic conceptions of masculinity in particular. One area of social scientific research where the neglect of affective relations has not only had an impact on scholarship but also on public policy is the field of education.

Affective relations and education: an exemplary case

The trivialisation of the world of love, care and solidarity, and of feeling and emotion more generally, has had a profound impact on thinking in education. As ‘fallible’ emotions were not taken seriously in social scientific research, neither were they taken seriously in education. Education was and is defined as being about the development of

reason (Rousseau, 1911; Callan, 1997, 2004; Dewey, 1916). Under the influence of Piaget, formal education increasingly focused on the development of abstract reasoning, notably mathematical reasoning. The primacy of abstract reasoning was underwritten by Bloom's (1956) educational taxonomy of educational objectives (cognitive domain) which ranked modes of cognition on a hierarchical scale. Bloom's taxonomy was widely disseminated and set the agenda for evaluation and testing in the post-war era. His equally important taxonomy of educational objectives for the affective domain (Krathwohl, Bloom and Masia, 1964) was never developed either by educators or governments.

Contemporary educational thinking continues to draw heavily from Piagetan thinking, emphasizing the development of logical mathematical intelligence and abstract reasoning (Gardner, 1983). Even the growing recognition of emotional and personal intelligence within developmental psychology (see Gardner, 1983, 1993, 1999; Goleman, 1995, 1998; Sternberg, 1986, 2002) has not unsettled the focus of education on the development of the logical mathematical and linguistic capabilities for servicing employment. There is a strong focus on the relevance of emotional intelligence for measurable achievement; it is generally defined as a capability that enhances and supplements other marketable capabilities including academic attainment (Cherniss et al., 2006; Grewal and Salovey, 2005; Goleman, 1995; Lopes et al. 2006; Vandervoort, 2006).

There is a strange irony in the development of academic interest in defining and measuring emotional intelligence. Despite the obvious ways in which emotional intelligence is crucial to the development of human capabilities to love, care and engage

in solidaristic relations with others, and to moral education (Cohen, 2006), the advance of neo-liberal thinking has led to defining it as yet another measurable and testable public sphere skill, to be deployed largely in the development of the public, market-led persona. At the heart of this shift is an assumption that the ideal human being is not only a self-sufficient and rational citizen, but also quintessentially an *economic* citizen (Lynch, Lyons and Cantillon, 2007). The focus of the Lisbon agreement on preparing citizens for the ‘knowledge economy’ within the EU exemplifies this trend, as knowledge is reduced to the status of an adjective in the service of the economy. At the individual level, the purpose of education is defined in terms of personalised human capital acquisition, making oneself skilled for the economy: ‘the individual is expected to develop a productive and entrepreneurial relationship towards oneself’ (Masschelein and Simons, 2002: 594).

Why educators neglect the affective domain

The neglect of education for emotional work, particularly for love, care and solidarity work, arises for a number of reasons. First it arises because the model citizen at the heart of classical liberal education is a ‘rational’ (in the narrow sense) citizen and a public persona; thus the student is being prepared for economic, political and cultural life in the public sphere but not for a relational life as an interdependent, caring and other-centred human being. Cartesian rationalism, encapsulated in the phrase ‘Cogito ergo sum’⁵, succeeded in embedding an understanding of ‘the person to be educated’ as an autonomous, rational and increasingly economised being, one who largely ignores the relational caring self (Noddings, 1984).⁶ The dependent citizen is left outside the

educational frame in the Rational Economic Actor (REA) model (Lynch, Lyons and Cantillon, 2007).

The close and growing link between formal education and employment also contributes to the neglect of the affective. Because educationalists tended to take the definition of the person-to-be-educated from mainstream social and psychological thinking, they also tended to adopt these disciplines' core assumptions as to what constitutes work. Within the social sciences, only work for pay, or work within the market economy, has been defined as real work (Harrington Meyer, 2000; Pettinger et al., 2005). The equating of work with economic self-preservation and self-actualization through interaction with nature (Gürtler, 2005) meant that education is seen as preparation primarily for economic productivity.⁷ What is seen as 'private' care labour can easily be ignored within this paradigm, while training for paid care labour, because it is assimilated to other forms of employment, emphasizes professional detachment rather than emotional involvement.

A further reason why care has been ignored in the academy and in education is because of the way scholarly work itself is produced; it is a by-product of the domain assumptions of dominant researchers across disciplines (Gouldner, 1970)⁸. The social relations of research production and exchange operate on the premise that one has sufficient personally-controlled and care-free time to think, to write and rewrite: one needs freedom from necessity to be an academic (Bourdieu, 1993). Given that not all caring (especially love labour: see Lynch, 1989a, and Chapter 2 below) can be delegated without being transformed, those who have non-transferable dependency demands on their time and energy either cannot write, or cannot write much. They are less likely to be

care commanders, people who are in positions of power and can delegate essential care and love work to others. In contrast, those who are in a position to globalise their point of view are generally people who have time to do the promotional work that international academic scholarship requires, not only writing and research time, but care-free travel time, networking time, conferencing time and general self-promotional time. Those who have named and known the world academically are disproportionately people (mostly men) whose paradigmatic and domain assumptions are formed in relatively care-free contexts. The domain assumptions of research production, distribution and exchange have been care-free assumptions and these have determined priorities both social scientifically and educationally.

Concluding remarks

While sociologists have examined issues of inequality in depth, the focus of much of this work has been on economically-generated inequalities, especially class inequalities (Grabb, 1994; Romero and Margolis, 2005). Affective inequalities arising from the unequal division of care labour within and outside households, and from unequal access to love, care and solidarity, have only become the subjects of research under the growing influence of pro-feminist scholarship. Feminist scholars have moved sociology and related disciplines away from their fixation with the Weberian and Marxist trilogy of social class, status and power as the generative sites of inequality and exploitation. They have drawn attention to the way the affective domains of life are discrete spheres of social action, albeit deeply interwoven with the economic, political and cultural spheres.

Economics and the Affective Domain

Like sociology and education, economics has not traditionally been concerned with the affective domain and the issues of love, care and solidarity. The emphasis in neoclassical economics, the dominant approach within economics, on methodological individualism, the centrality of rational choice theory and the distinction between the public and private spheres plays an important part in understanding not only the neglect of the affective domain but also the marginalisation of women's economic contribution. Notwithstanding this, quite a number of areas of theoretical and empirical work within economics implicitly touch on the affective domain including labour market theory, the concept of work and the division between paid and unpaid labour, efforts to incorporate non-market activity in national accounting systems, the concept of altruism particularly as it relates to the household, the emergence of new home economics of the family and the subsequent application of game theory to the economics of the family. It has, however, been with the rise of feminist economics from the 1980s onwards that issues of care labour have been explicitly addressed in a comprehensive manner.

Part of the agenda of feminist economics is to investigate the apparently 'value free, politically neutral, gender blind' assumptions and values embedded in the neoclassical paradigm, particularly in those areas that cross the affective domain and bear directly on women's lives and experiences. For example, in examining the wage gap between men and women, neoclassical economics focuses on women's rational choices as the explanation that justifies the higher earnings of men, whereas gender analysis examines how gender-specific social expectations about women's roles and caring obligations affect their labour market experiences (Barker 1999). Similarly, Strassman

(1993) examines the often implicit assumption that people are responsible for taking care of their own needs and take only their own needs and wishes into account, arguing that while it may fit the profile of a select few, it fails completely to recognize the economic reality for children, older people, those with disabilities or many others who do not have independent, or sufficient, access to economic resources.

Paid and unpaid labour

Conventional economic analysis defines ‘work’ as paid employment. This view is increasingly contested as producing a one-sided picture from which distorted and inefficient policy outcomes result. Economic life depends on both paid work and on the unpaid activities undertaken in the ‘private’/domestic sector. In recent years data collection on unremunerated work, currently outside most national accounting systems, has been undertaken in several countries with a view to explicitly recognizing and incorporating the economic contribution of unpaid work. But the emphasis on market activity remains, echoing Pigou’s (1932) view that gross domestic product decreases when a man marries his housekeeper, and the crucial interdependency between paid and unpaid economic activities is underplayed.

The unpaid domestic sector provides caring services directly to household members, as well as to the wider community, that contribute to individual socialization and to the production and maintenance of human capabilities, thereby developing ‘the social fabric, the sense of community, civic responsibility and norms that maintain trust, goodwill, and social order’ (Himmelweit 2002). Caring services are also provided by employees in the public and private sectors of the paid economy. Obviously some of this paid work takes place within households and there is both paid and unpaid work in the

voluntary sector, which is a significant provider of care services and a net contributor to the social and economic infrastructure. A key issue however is that while both men and women work in all arenas, there is a marked gender division of labour and it is predominately women's time that is stretched between work in the unpaid economy and the paid economy. The terms 'double day' and 'second shift' have been used to describe the phenomena of increasing numbers of women who are income earners yet at the same time continue to perform their traditional roles as household managers and childcare providers.

While the paid and unpaid economies are interdependent there are also fundamental differences. A key difference is the motivation to care for others. Gendered social norms play a significant role in creating sense of responsibility which may compensate for or even outweigh monetary reward. The motivation of self interest, the extent of which is exaggerated even in the paid labour market, makes little sense when applied to situations in which work is not directly rewarded at all (Folbre and Weisskopf 1998). Again, the unpaid labour market is distinctive insofar as a lot of the work cannot be delegated to others. As discussed later in this book, many aspects of caring work are non-commodifiable. Caring labour is relational – it entails not only the performance of physical tasks but also the development of a relationship. Parents can pay someone to care for their children and those entrusted with the task may do it very well, but the relationships they are building with those children are their own: they cannot build the parents' relationship (Himmelweit 2005). So, insofar as the aim of caring is to develop a particular relationship, it cannot be contracted out to others. Finally, productivity increases in caring labour are difficult to achieve. As personal relationships form the

basis of care there is a limit to how far they can be stretched. It is unlikely therefore that society can reduce the total amount of time devoted to caring labour across the whole economy without damaging the quality of care provided. The issue of quality can be illustrated in the educational sector where the desire to reduce the ratio of teachers to children is sometimes put forward as an economic efficiency objective.

Despite the differences between paid and unpaid labour at individual and household level, the decisions made about caring and employment are entwined, an issue which labour market theory and labour market policy are increasingly being forced to acknowledge. Care is increasingly being recognised as a significant economic issue (Himmelweit 2005), not just in terms of its contribution to the economy but in light of the more conventional point that unpaid care labour presents a practical limit to the growth of the economy, by being an obstacle to the expansion of employment and especially increased female labour market participation. Care responsibilities for children and elderly parents remain the most significant variable affecting women's labour force participation and hours of employment (Gardiner 1997).

Economics of the family

A significant interface between economics and the affective domain is in what can be generally classified as the economics of the family, which is concerned with the way decisions are made and resources are allocated within families. This field of study draws together different areas of economic enquiry such as unpaid labour, female labour force participation, population, social policy, game theory and bargaining models as well as exposing a key weakness, from a feminist perspective, in methodological individualism

which for consistency has to resort to the false dichotomy between selfishness in the market place and altruism in the family (Folbre and Hartmann 1988).

Economic theories of household behaviour are commonly divided into two types – unitary and collective models (which incorporate co-operative and non-co-operative bargaining models). The former assume that a household behaves as if it were a single individual decision maker maximizing the total utility of the household whereas the latter tries to recognize the potentially conflicting preferences of individual members and posits a form of decision making which takes into account the differing positions and choices of individual members. Both of these models conceptualise the family unit as a producer as well as a consumer, so that a household acts like a firm insofar as it produces outputs, invests in real assets and generates non-commodifiable goods such as children, care and happiness for the welfare of the family.

The most well known and frequently cited example of a unitary model is Becker's New Household Economic Theory (1981). Becker's model is problematic for reasons that are well documented (for example, see Bergmann 1995; Lundberg et al 1997; Nelson 1994). These include his assumption about women's economic dependency; the necessity of the head having enough control of income for others to depend on him for transfers; the assumption that the head cares about other family members while they themselves are completely selfish; the assumption that household decisions depend on total income and it is irrelevant who receives that income; his analysis of time as a scarce resource; and his theory on the specialisation of labour and classification of non-market work as leisure, which makes invisible and devalues the care work and love labour carried out within the home. Furthermore, the unitary model is not supported by empirical evidence (Woolley

and Marshall 1994; Browning et al 1994; Cantillon and Nolan 1998; Cantillon, Gannon and Nolan 2004).

The shortcomings of the unitary model have led to a number of alternative approaches that focus on the individuality of household members and explicitly address the questions of whether, and if so how, individual preferences lead to a collective choice. These models, based on game theory, draw attention to the process of co-operation and conflict in families and in particular to how that conflict is bargained over and negotiated. These models attempt to correct the pervasive gender bias of earlier models such as the 'benevolent male dictator' or women's supposed comparative advantage in household work. They provide more plausible explanations of household expenditure patterns and of how inequality in the labour market reinforces inequalities in the home and they identify factors influencing the division of resources such as divorce legislation and social policy. However, while these models may be an improvement on unitary models they still have many shortcomings. In particular the ideology of individualism which underlies these models has been increasingly questioned. Sen (1990) argues that women and other oppressed people may not have an accurate sense of their own interests while Nelson (1996) argues that a parent's care may be better understood as a 'commitment' rather than an action motivated by their own interests. While still a long way from a well developed, non-individualistic model of the family, the game theoretic approach has begun to shift economists' views of the household so that inequalities in power and wealth among household members cannot be as easily ignored nor can the household be treated as an undifferentiated optimizing unit (Folbre 1997).

Non-monetary work and national accounting systems

Unpaid household work has not, by and large, been included in national accounts, with the resultant undervaluing of the contribution of women's work. The exception to this has been the Nordic countries, which since the 1930s have included unpaid household work in their national account estimates in a desire to provide a comprehensive picture of all economic activity in society and to explicitly record women's economic contribution. In the Anglo-American tradition only goods and services that were exchanged for money were included in the first international standard of national accounts published in 1953. As the limitations of using Gross Domestic Product or other systems of national accounts as a welfare indicator became clearer in the 1970s, particularly in relation to environmental concerns, the issue of non-market activities and the question of women's unpaid labour in the household came onto the agenda. Waring (1989), Eisner (1989), Ironmonger (1996) and others pioneered approaches to computing the value of unpaid work into satellite accounts that are consistent with the national account framework. In addition to the restrictive definition of economic activity in national accounts, part of the problem is the notion of value itself. In economics, value is defined in terms of market value, making it difficult to assign a value to goods and services that are not marketed. This is solvable for goods and services that could be sold on the market, such as subsistence crops or garden vegetables consumed by the producers, as a market value can be imputed for them. The same approach can be taken for some other non-market activities, including a lot of household work and also some caring work. However, some of this work transcends market value in that it makes a vital contribution to satisfying human needs that cannot be captured by its market value. Some of the work on developing 'quality of life' indicators represents an attempt to measure such values

(Nussbaum and Sen 1993). Other aspects of these contributions to social reproduction and the fabric of society, such as fostering friendships and other relationships, are of such intangible quality that it is impossible to place a market value on them. That is, not all work of value, in a sense that is clearly relevant to the economy, has a market price.

Concluding Remarks

This very brief overview shows that there is interesting work being done in economics on issues of love and care, but also that this whole field is only beginning to be developed. Feminism in particular has put care work and its value on the agenda of economics. Yet economics continues to have difficulties dealing with unpaid labour, with modelling economic relationships within families, and with constructing adequate ways of assessing the value that unpaid care work contributes to the economy.

Affective Inequality and Law

Law is deeply implicated in constituting and perpetuating the social institutions that shape affective inequality. Until fairly recently, however, legal scholarship has neglected this fact. As in other fields, feminism has been the key influence in drawing attention to the role of law in sustaining affective inequality, but feminists are divided on its capacity to address this inequality, particularly in terms of legal rights. Although the affective system extends well beyond the family and into many other social institutions, the family plays a key role in this system and is our main focus here.

Affective inequality in legal theory

As Michael Freeman (1994) observes, legal theorists largely neglected the affective context until the arrival of feminism. Martha Fineman (1995, pp. 23-24) also notes that

‘the family has been only marginally evident in legal theory or jurisprudence, including feminist legal theory’ and comments on the scholarly tendency for ‘those relationships conceptually contained in the private sphere [to receive] little sustained critical attention except as they relate to the public domain’.

Recent work in feminist legal theory has gone some way towards redressing this neglect of the family and of the affective system more generally. Feminist theorists have not just critiqued a host of laws that impact upon the affective, but have probed the role of the legal system in generating and sustaining affective inequalities. Such scholarship has tended to focus on the consequences of unpaid care giving for (female) care providers (Fineman 2003), prompted by a concern that such labour is a site of gender inequality that has not been tackled by the major law reform efforts of the past few decades. More generally, a body of legal writing, such as that concerning children and sexual minorities, has begun to engage with the conditions of access to relationships of love, care and solidarity.

An example of this new approach is Fineman’s (2003) view that care must be reconstituted as a public good. Responsibility for ensuring that care work does not lead to poverty and social exclusion should be taken out of the private sphere and reframed as a collective responsibility. Under this re-negotiated ‘social contract’ each individual engaging in caring labour would have a range of socio-economic rights met by the state, rather than by family members. Fineman (1995) also argues that the legal category of marriage should be abolished; instead the relationship which should be valued and

protected is that of Mother/Child, where 'Mother/Child' is taken as a metaphor for all relationships that involve care taking (e.g. son/elderly parent).

O'Donovan (1989, p.146) notes that all of those who go to law find a language imposed upon them, and that this language incorporates certain values. In liberal legal systems, the values contained in that language have been identified as liberty and autonomy. These are values of sharply defined commitment, not of open-ended obligation; of free choice, not of family duty; of contract not of trusting relationship. She maintains that women's concern for others and for continuity and connection is an alternative model of justice. The idea that women have a 'different voice' (Gilligan 1982) has played an important role in the debate over the importance of legal rights in promoting equality.

Law's presence in the affective domain

Because of its regulatory role in society, law is implicated in many social practices. Law both reflects and constitutes social relations (Ewick and Silbey 1998; Gordon 1984; Hunt 1993; McCann 1994). It promotes certain ideals at the expense of others (for example, by telling us what types of 'families' deserve recognition) and plays a powerful role in shaping and regulating identity. Legal discourse is said to construct gender identity by, for instance, applying notions of the 'good mother' (Biggs 1997) or 'good father' in custody disputes, the 'deserving housewife' or homemaker in family property disputes and so on (Smart 1989). As Brophy and Smart (1985, p. 1) put it:

Law sets the parameters to what is considered 'normal', for example marriage, sexual relations, the way we care for our children. ... We cannot 'opt out' of these legal

parameters by adopting unconventional lifestyles or by avoiding heterosexuality. The law still has something to say about our domestic lives and intimate relations, and we cannot assert its irrelevance by ignoring it.

An example of this process is the distinction between the ‘public’ and the ‘private’. As Yuval-Davis (1997, 80) puts it, the ‘construction of the boundary between the public and the private is a political act in itself’. In law, the public/private distinction is used in different ways in different contexts. Karl Klare (1992, p. 1361) observes:

There is no ‘public/private distinction’. What does exist is a series of ways of thinking about public and private that are now constantly undergoing revision, reformulation, and refinement. The law contains a set of imageries and metaphors, more or less coherent, more or less prone to conscious manipulation, designed to organise judicial thinking according to recurrent, value-laden patterns.

Feminist scholars have exposed law’s contradictory and complex relation to the affective context. The affective is in fact highly regulated. Laws proscribe certain forms of sexual contact, prescribe ideal family forms largely through privileging heterosexual marriage, and regulate abortion and other reproductive technologies. Non-intervention is itself a form of regulation (Freeman 1994; O’Donovan 1989).

How family law reinforces inequality

The manner in which law constitutes families has implications for both primary forms of affective inequality – the unequal distribution of care work and the care deprivations

experienced disproportionately by certain groups. For a start, law has been complicit in conveying the ideological message that certain aspects of the 'private' should remain outside the preserve of state action and regulation. For example, male dominance was furthered by case law and statutes that explicitly excluded women from the public sphere and did not extend individual rights into the domestic sphere to which they were confined (Olsen 1983; Taub and Schneider 1998; Vogel 1988). In this way, law has acted to preserve existing power relationships and social arrangements and to reinforce the status quo. Liberal legal doctrines such as the social contract and its attendant liberal rights sheltered certain forms of inter-personal oppression while sanctioning governmental interference in the lives of poor and deviant families. In Ireland, for example, severe forms of affective inequality were experienced by women who gave birth outside marriage and by the (mostly) working class children who were effectively incarcerated in various homes and institutions while theoretically being in the care of the state (Feeley, 2007; O'Sullivan 1998; Raftery and O'Sullivan 1999).

Feminist writers have exposed the devaluation of care within the legal field, objecting to the interpretation of work performed in homes as unproductive love and affection rather than as productive labour (Siegel 1994; Silbaugh 1996; Roberts 1997; Fineman 2003; Williams 2001). Assessment of what types of activities or work should be 'rewarded' with a share in the family home has been a highly contentious issue before courts in several countries (e.g. Khadiagala 2002; Siegel 1994; Wong 1999; Yeates 1999). Where provision is made for the redistribution of property between (married) family members, some recognition is afforded to the value of care work at a horizontal level. Such measures, however, ensure that the costs of social reproduction are largely

privatised (Boyd 1999), a pattern that has become concentrated and (re)formed under neo-liberalism (Cossman and Fudge 2000). For example, the World Bank's land reform agenda is, according to Manji (2003; 2005), premised on the continued exploitation of women's unpaid work. It treats the household as an undifferentiated unit, overlooking the fact that the family often functions as an ideological and material site of gender-based oppression.

Much legal practice assumes the inevitability, or at least primacy, of the family centred on heterosexual partners. Stychin (1995, p.7) argues that 'legal discourse is an important site for the constitution, consolidation and regulation of sexuality and, in particular, the hetero-homo sexual division.' While the European Court of Human Rights has adopted a more progressive stance, it has done so on terms that cling to a binary model of gender difference (Grigolo 2003). Gay and lesbian people are posited as individuals with immutable characteristics that mark them out as 'different' and as deserving of toleration. The background norm against which these 'others' are measured – the heterosexual family unit – is not problematised (Gottel 2002; Stychin 1995).

Another way the law has reinforced affective inequality is in its rules concerning adoption. Traditionally adoption was predicated on an exclusive model, under which what was effectively ownership of the child passed exclusively from the birth parents to the adoptive parents. The effect of this practice was to completely sever the tie between birth mothers and children and to place the child with a new nuclear family, often with severe emotional costs to all of the parties concerned. Open adoptions that enable ongoing contact between birth parents and children are now routine practice in many jurisdictions.

Of course, it is not just in the affective sphere that family law has served to reinforce inequality. Throughout its history, the effect and to a large extent the purpose of family law has been to ensure that children inherit the socio-economic status of their parents.

The debate over rights

Rights play a central role in the operation of the legal system, but feminists have had very different views about the potential of legal rights for addressing inequality. MacKinnon (1987), for example, believes that a key mechanism for the institutionalisation of male power is the law's claim to gender neutrality and objectivity, epitomised in the appeal to abstract rights. Naffine (1990) shows how the ostensibly autonomous, contracting individual is gendered: men's dependencies and needs are met within the unacknowledged private sphere, thus women's domestic work sustains the 'paradox of the man of law' (p. 149). By equating liberty with state non-interference, the right to privacy including the decisional autonomy of the family cordons off aspects of this important sphere of life from public scrutiny. Separation is valorized above connection leading to the devaluation of care work in judgments pertaining to both interpersonal relationships and the state-individual axis considered in socio-economic rights jurisprudence.

Gilligan and MacKinnon have both argued that an emphasis on rights reflects male values and male power. In Gilligan's (1982) view the ethic of rights comprises the male voice, whereas the female voice is the ethic of care. Her research leads her to the conclusion not that the male voice should be suppressed to make way for the muted female voice, but that properly adult moral conceptions integrate both ethics. Her work

has generated much debate and criticism in feminist legal theory. For example Scales (1986, p. 1381) comments that Gilligan's work 'tempts one to suggest that the different voices of women can somehow be grafted onto our rights and rule-based system'. Scales is opposed to what she sees as the facile idea that incorporation of the female voice into a rights-based system could be anything other than mere incorporation, arguing that the inevitable result is the further repression of the contradiction between the two voices: 'Incorporationism assumes that we can whip the problem of social inequality by adding yet another prong to the already multi-pronged legal tests' (Scales 1986, p.1382).

Another argument regularly advanced against rights is that they promote an adversarial stance instead of the sort of co-operation that makes for good social relations. Mary Ann Glendon (1991), for instance, argues that the proliferation of rights goes hand in hand with the impoverishment of political argument, with every person asserting their private entitlements against each other or the state instead of trying to come to a mutual agreement or compromise on matters that affect all parties. A related objection concerns the 'implicit individualism of the liberal legal subject' (Lacey 2004, p.21). Feminists such as West (2003, 2004) and Naffine (1990) problematise the abstract individual rights-bearer at the heart of liberal legalism. Rights discourse obscures the extent to which we are interdependent and valorises separation instead of connection.

Moreover, as Scheingold (1973, p. 76) persuasively argues, a problem with articulating rights claims is that they 'cut both ways – serving at some times and under some circumstances to reinforce privilege and at other times to provide the cutting edge of change'. Measures designed to transcend the public/private dichotomy to some extent, such as the recognition of domestic violence as a harm that should be cognisable as a

legal wrong, have met with quite a degree of success. Yet the entry of liberal rights into the private sphere did not result in equality of power, resources or other dimensions (Minow 1990). Many early successes in the arena of reproductive rights were not based on egalitarian arguments but rather derived from rights to marital privacy which were heavily imbued with patriarchal assumptions (Flynn 1995). Constitutional anti-discrimination guarantees have been deployed to remove the remaining vestiges of formal status hierarchies between married men and women (Doyle 2004, ch.7), but have not altered the substantive position of spouses, as becomes apparent in case law on the value of care work.

Robin West (2003, p. 90) starkly proclaims: 'Rights have never been viewed, within liberalism, as a source of support for caregivers.' While historical justifications rested on women's nature, contemporary liberalism seems to rely as justification on women's choice. The minimal protections in place derive from a conception of charity as opposed to validating such work as a matter of right. West does suggest, however, that liberalism can be expanded to embrace a right to care.

Despite these criticisms, many feminist legal scholars continue to believe that rights have an important potential for promoting gender equality. Minow (1990, p. 301) argues that we need not dispense with citizenship, equality, and other human rights because of their limitations, but that we should 're-conceive rights as a notion that upholds the rights in relationships among mutually dependent members of the community'. Rights also retain their appeal as a means of ensuring that the self is not effaced by adherence to communitarian norms, which can lead to erasure of the female as subject within the family (Minow and Shanley 1996).

One reply to the charge that rights discourse generates conflict between individuals and so threatens co-operative social relations is that rights themselves do not fuel adversarial positions but are in place in the event that relations break down (Waldron 1993). In addressing marriage Waldron (1993, p. 374) writes that formal rights and duties do not constitute the relationship but rather operate as a type of safety net. Minow (1987, p. 1874) further argues that those who invoke rights discourse actually affirm community because in doing so ‘invest themselves in a larger community, even in the act of seeking to change it’.

The case for rights is strengthened by reflecting on the distinction drawn by liberal legal systems between rights and needs (Vogel 1988, p. 315). Waldon (2000) argues that the language of rights is preferable to the language of needs because it provides a way that self-respecting individuals can articulate determinate claims as moral equals. Tronto and White (2004) agree to an extent with Waldron but further contend that ‘needs’ ought to be reconfigured. Explaining that ‘needs’ tend to be associated exclusively with subordinate groups they comment:

Needs talk is at odds with ‘self-respect’ only if we cannot conceive of needy selves as citizens. Recent feminist scholarship has challenged both the concept of autonomy and its common equation with economic self sufficiency, and the connections between autonomy and liberal citizenship. Ultimately all selves are needy. But because the liberal conception of citizenship is tightly linked to a conception of independence and autonomy, this fact is often obscured. (Tronto and White 2004, p. 433)

With regard to the objection that rights are incompatible with relationality, a number of feminist theorists have claimed that rights too are relational. Both Young (1990, p. 25) and Nedelsky (1993) argue that legal rights are not singular objects possessed by individuals but social relationships, which are reduced to a written text in order to be captured by law. As Minow (1987, p. 1884) argues, because legal rights ‘arise in the context of relationships among people who are themselves interdependent and mutually defining’ they are best configured as ‘simply the articulation of legal consequences for particular patterns of human and institutional relationships’. Nedelsky (1993, p. 13) makes both a normative and empirical claim in asserting that all rights are relational: ‘In brief, what rights in fact do and have always done is construct relationships – of power, of responsibility, of trust, of obligation.’ While the surface inquiry conducted by a court may present an understanding of rights as shielding the individual from the tyranny of the majority, a question of rights ‘trumping’ the common good (Dworkin 1977), the actual structure of decisions reveals that they are vehicles for achieving various collective goals. Pildes (1998, p. 731) observes that judicial review ‘requires courts to determine the scope of rights with reference to the justifications government offers for limiting them. That is because rights are better understood as means of realizing certain collective interests; their content is necessarily defined with reference to those interests.’ Thus legal reasoning is already relational but arguably tends to prioritise proprietary-object relations rather than ones framed around egalitarian principles.

The goal, therefore, should be twofold: to expose the unarticulated premises and invisible mechanisms through which relational principles enter the law and to ensure that those principles foster human connections that advance rather than impede substantive

equality. If courts were to adopt such a relational view of rights, property for example could be regarded as a system that shapes the contours of human relationships. In doing so courts would be more attentive to the kinds of relationships we want the legal rules to foster or discourage.

If rights are to be taken seriously in the affective sphere, a key question will be whether to assert a ‘meta right’ to care (West 2003). Work on the positive rights required to ground such a meta right to care dovetails with critical legal scholarship on socio-economic rights (Pieterse 2005). Critical legal scholars have pointed out that the civil and political rights that take prominence in most Western constitutions need to be underscored by the social rights required to exercise them (Jackman and Porter 1999). This point can be extended to include rights relating to love and care.

Concluding Remarks

Law’s treatment of love and care is therefore somewhat paradoxical. Legal systems have a profound effect on affective relationships, defining what is normal and reinforcing inequality. But legal scholarship has only recently addressed these issues from an egalitarian point of view. This scholarship has opened up new ways of thinking about the role of law and important debates about how it can be used to promote equality. The debate about rights is an example of the many issues that remain to be resolved.

Affective equality and political theory

As we note in Chapter 2, affective equality ranges across a family of concepts, including love, care and solidarity. The idea of love, however, has received less detailed treatment from political theorists than the discussion of care (which sometimes makes reference to

love: see below). Issues of solidarity are related to extensive debates about the concept of community in recent political theory, but these tend to concentrate on issues of shared values and identities rather than on the parallels between love, care and solidarity. In this section, therefore, we restrict our discussion of affective equality in political theory primarily to feminist work on the theme of care. We focus on a few key moves in the debate about care and equality rather than attempting to survey the entire literature.

A brief overview

As in the social sciences, political theory has traditionally been concerned with the ‘public’ sphere, defined primarily in terms of the coercive political relations of the state and the economic relations of market economies, and therefore with inequalities of income and wealth, status and power. Rawls’s *A Theory of Justice* (1999), which has been the dominant work in Anglophone political theory since its publication in 1971, is a clear example of the primacy of the public sphere so defined. Regarding the private sphere, Rawls repeatedly refers to ‘the family’ as playing an important role, but only insofar as it contributes to the formation of citizens (pp. 405 ff.) and to inequalities of opportunity (pp. 64, 265, 448).

The most powerful early criticism of Rawls’s treatment of the family, Susan Moller Okin’s *Justice, Gender, and the Family* (Okin 1989), attacks Rawls and other political theorists for neglecting the distributional, status and power inequalities within families, and their consequences for inequalities in the public sphere. Okin treats the gendered division of labour as a central factor in generating these inequalities. But although she identifies child care as integral to this division of labour, she does not focus

on the unequal success families have in satisfying their members' needs for love and care, and she treats domestic abuse and violence as indicators of unjust power relations (pp. 128-9, 152) rather than as affective injustices in their own right. Rawls's reply to Okin (Rawls 2001: 163-68) concedes that women's 'disproportionate share of the task of raising, nurturing, and caring for their children' is a 'long and historic injustice' (p. 166) but his attention remains fixed on how this inequality affects moral development and equality of opportunity.

Part of the academic impact of the women's movement from the 1980s onwards was to put care itself onto the agenda of moral and political philosophy. However, the way that this was generally framed was in terms of an alleged tension *between* care and justice, and therefore, implicitly, between care and equality. Perhaps the most widely-cited work in this vein was Carol Gilligan's *In a Different Voice* (1982), which maintains that women adopt a contextualised, care-based moral perspective in contrast to the allegedly abstract, deductive, rule-based forms of morality seen as typical of western philosophy in general and epitomised by both of its dominant Kantian and utilitarian traditions.⁹

In the 1990s, a number of important works emerged that challenged the idea of a simple choice between justice and care. On the one hand, feminist political theorists offered powerful critiques of the adequacy of the dominant tradition for understanding social justice, precisely because of its neglect of issues of care and dependency. In particular, Eva Feder Kittay's work, *Love's Labour* (1999), systematically criticises traditional theories of equality, and Rawls's theory in particular, from a point of view that takes human dependency seriously. Kittay argues that the issue is not to choose between

equality and care but to develop a ‘connection-based’ conception of equality that recognises that dependency is a typical condition of human life, that dependents need care, and that dependency workers – those who provide this care – need support in doing so. She maintains that ‘the good both to be cared for in a responsive dependency relation if and when one is unable to care for oneself, and to meet the dependency needs of others without incurring undue sacrifices oneself is a primary social good in the Rawlsian sense’ (Kittay 1999: p. 103). From a somewhat different perspective, Martha Nussbaum’s development of the capability approach (Nussbaum and Sen 1993; Nussbaum 1995, 2000) identifies care-related factors such as love and affiliation, as well as protection from assault and abuse, as central human capabilities that an adequate theory of justice needs to promote.

Concurrently there was a growing realisation that the ‘ethics of care’ approach could not be divorced from questions of justice. For example, Diemut Bubeck (1995) shows that an ethics of care perspective leads inevitably into important issues of justice, such as how to avoid the exploitation of women as carers, how to address inequalities in meeting people’s need for care, and how to promote an equal distribution of the burden of caring. More generally, she points out that questions of justice inevitably arise from conflicts of interest between those who need care, those who provide care, and third parties who benefit from the care work of others – the latter two categories consisting predominantly of women and men, respectively, and therefore playing a central role in the reproduction of gender inequality.

Major themes

These theoretical developments contain three major themes, not always integrated. First of all, there is an emphasis on the needs that human beings have for various kinds of care. The literature has tended to focus on particular phases or conditions of life in which people are especially vulnerable and therefore clearly dependent on others, such as infancy, childhood, illness, frail old age and some cases of disability. While these examples bring out very clearly the inevitability of the need for care, they also generate some problems. With respect to disability, the discussion is sometimes insufficiently informed by the social model of disability, which distinguishes between disability and impairment and rejects the assimilation of impairment to incapacity. As a result, it is sometimes assumed that all disabled people need care of a kind or to a degree that non-disabled people do not need. This assumption is strongly contested by many disability activists.¹⁰ However, some of the cases discussed, such as Kittay's powerful discussions of severe mental impairment, show that the opposite assumption is also mistaken, and that certain forms of impairment do require specific forms of care. A more general problem with concentrating on vulnerable conditions is the implication that typical healthy adults are *not* dependent on others and do not need care. Our own view is that interdependency is the standard condition of human beings and that the need for love, care and solidarity is ubiquitous. It is only in very exceptional circumstances that individuals may be said to be fully independent.

The idea that love, care and solidarity are general human needs has not been easily incorporated into mainstream liberal egalitarian theorising, largely because of a reluctance, stemming from Rawls, to build into a theory of justice anything that belongs to a substantive conception of human well-being. Rawls's 'primary goods' are defined

precisely as ‘things which it is supposed a rational man [*sic*] wants whatever else he wants’ (Rawls 1999: p. 79). In response to the claim that love and care are a basic human need, liberally minded political philosophers typically claim that these belong to a specific conception of human well-being and that their inclusion therefore violates the requirement that theories of justice should be neutral among conceptions of the good.¹¹ Kittay’s reply is that the goods of being cared for when one needs it and being able to care for others when one has to do so meet Rawls’s own standards for primary goods, because they are goods that everyone needs as a condition for pursuing their own ends. Drawing on Rawls’s later work, *Political Liberalism* (1993), Nussbaum argues that there is a general, cross-cultural ‘overlapping consensus’ on the value of such goods. On either account, they can be included in a theory of justice without privileging any particular conception of well-being. A slightly weaker, third position leading to a similar conclusion is to argue that even if there is a small number of people who genuinely do not need or at least do not want any love or care in their lives, this is no different from any of Rawls’s other primary goods, since there are also people who do not want certain basic liberties or more than a minimal amount of income. On this view, it is enough for egalitarian theories of justice to focus on goods that nearly everyone needs. Strict neutrality among all conceptions of well-being is simply too strong a requirement.

The second major theme of the literature is its concern with the work of caring. At least two issues have been raised here. The first, and historically the earliest, is the gendered division of labour and the fact that the largely unpaid work of caring is done primarily by women. Although Okin’s (1989) focus is on the effects of this division of labour on gender inequalities in income, power and status, more recent discussions in

political theory have also emphasised the unequal work burden imposed on women by this division of labour (for example, Bubeck 1995; Fraser 1997: ch. 2). What has made this inequality difficult to incorporate into mainstream theories of equality is a tendency for such theories to ignore inequalities of work burden altogether.

A second question about care work is how to support those who care for others. Okin argues that the ideal solution is to abandon the gendered division of labour; in the meantime, she proposes that there should be a mandatory splitting of household income so that wives in traditional roles are no worse off materially than their husbands (Okin 1989: ch. 8). This proposal emphasises the material needs of care workers; but of course they also have their own care needs. Drawing on the tradition of care-giving to new mothers, Kittay articulates

a principle of *doulia*: *Just as we have required care to survive and thrive, so we need to provide conditions that allow others – including those who do the work of caring – to receive the care they need to survive and thrive.* (Kittay 1999: p. 107, emphasis in the original)

An egalitarian ideal of support for carers should therefore attend to the whole range of their needs.

A third major theme is that the *relationship* between care giver and care recipient can be more or less egalitarian. Returning to an earlier point, there has been a tendency to focus on situations in which the relationship is taken to be asymmetrical, i.e. where one person provides care and the other receives it. It is easy to imagine that this asymmetrical

relationship could not possibly be egalitarian in character, but interestingly enough the character of its presumed inequality has been perceived in very different ways. On the one hand, it looks as though care recipients are in a privileged position, since they are the beneficiaries of the work of care-givers without having to give back anything in return. As Bubeck (1995) notes, the ‘ethic of care’ places potentially limitless demands on care-givers. By contrast, one can see care-givers as the privileged parties to the relationship, because of their power over vulnerable care recipients. Although Kittay recognises that care recipients also exercise a kind of power over the carer, based on the moral claim that their needs must be met, she nevertheless views the relationship as one of unequal power, since the care recipient may have very little capacity for agency (Kittay 1999: pp. 33-5). Asymmetrical relations of care may also be marked by unavoidable inequalities of love and affection, if the care recipient is incapable of reciprocating the care-giver’s love; and of respect and recognition, if the care recipient is incapable of adopting these stances towards the care-giver.

All of these points indicate that there may be limits to the degree to which the relationship between care-givers and care recipients can be fully equal. But this does not necessarily show that the aspiration for equality is misguided. Even in the asymmetrical cases under discussion, aspects of the relationship can be egalitarian in character. For example, Kittay writes movingly about her daughter Sesha’s capacity for love: ‘That is what she wishes to receive and that is what she reciprocates in spades’ (Kittay 1999: 152). Unless there is some reason in principle why the relationship *should* be one of unequal power, love or respect, the fact that an equal relationship may not always be possible is not a fundamental objection to making it as equal as possible.

Because of the emphasis on asymmetrical relations, there has been less discussion in the theoretical literature of relationships of mutual care. Such relationships do not raise the same difficulties for equality as asymmetrical relationships: it is both possible and, arguably, desirable for mutual carers to treat each other fully as equals, with equal respect, power and care.

Concluding remarks

Although feminist philosophers have powerfully criticised mainstream political theory for its neglect of the affective domain, it has been an uphill battle. Partly because of the ‘care *versus* justice’ position, issues of inequality in caring relations have often been neglected. Recent feminist work has revealed a number of key themes for egalitarians – the need for care, the work of care, and the quality of the relationship between care-giver and care-recipient. These themes are explored in depth in the rest of this book.

Conclusion

In this chapter we have reviewed some of the approaches taken towards affective equality in a number of relevant academic disciplines. The story that is common to all of them is that scant attention was paid to the affective system and its constituent inequalities before these were focused upon by feminist scholars, mostly since the 1980s. Even now, after at least two decades of scholarly attention, issues to do with love, care and solidarity and the work that goes into sustaining them are largely confined to branches of academic disciplines that are labelled as ‘feminist’ or ‘radical’ rather than being recognised as central issues. The theme of affective equality has still to become truly integrated into mainstream sociology, education, economics, law and political theory.

¹ As Weber (1958: 194) observed ‘Whereas the genuine place of “classes” is within the economic order, the place of “status groups” is within the social order, that is, within the sphere of the distribution of “honour”. From within these spheres, classes and status groups influence one another... But “parties” live in a house of “power”. Their action is oriented toward the acquisition of social “power” that is to say, toward influencing a communal action no matter what its content may be.’

² The lower status accorded to this work was not just a function of its subject matter, the personal, the private, the familial; it was also a function of the gendered character of those writing and teaching in these fields, most of whom were women.

³ This term ‘cultural arbitrary’ was used first by Bourdieu and Passeron (1977) to explain the ways in which powerful middle class groups imposed their values, language and modes of expression on working class students in formal education. This imposition was seen as natural, inevitable and desirable although it was entirely arbitrary and resulted in working class students failing in schooling contexts that were alien and hostile.

⁴ To recognise the patriarchal control of sociological research is not to deny that some leading male scholars did recognise the role of patriarchy. In educational thought for example some male scholars made a space for feminist scholars to write and publish when it was far from politically fashionable (Walker and Barton, 1983). Pro-feminist male writers, including Connell (1995, 2002), Lingard and Douglas (1999) and Mac an Ghaill (1994) have been especially important in reconstituting the relevant gender questions for education. By examining the discourses and practices that constitute the masculine, Connell, in particular, has problematised the conception of ‘hegemonic

masculinity’, and in so doing has created a space for feminist educators to move beyond examining their otherness, their problematic status in a male-female binary. Bourdieu, while ignoring gender in most of his work, also recognised latterly the key role of patriarchy in subordinating women (e.g. Bourdieu, 2001).

⁵ I think therefore I am.

⁶ Yet an analysis of the etymological roots of the word ‘education’ shows that it originated in the Latin verb *educare* (which means to nurture and to develop through care), rather than from the verb *educere* (which means to lead out).

⁷ We recognise that there are important distinctions that can be drawn between the work of ‘homo faber’ (humans as makers of things), the labour of ‘animal laborans’ (the work humans must do of necessity to maintain life itself) and the work of humans as ‘animal rationale’ (intellectual labourers) (see Arendt, 1958). The distinctions made by Arendt in *The Human Condition* do not focus however on care labouring in and of itself, although she does recognise that the work that women did in the private sphere was hidden away because of the type of work involved: ‘Women and slaves belonged to the same category and were hidden away, not only because they were somebody else’s property but because their life was “laborious”, devoted to bodily functions’ (ibid: 72)

⁸ Gouldner defined domain assumptions as the personal values and assumptions that underpin research thinking, arising from personal experiences and statuses people may or may not reflect upon. They arise from our personal identities as women or men, ethnic majority or minority members, lesbian, gay or heterosexual, etc.

⁹ For critical insights into this debate, see Benhabib 1992, ch 6; Held 1995; Kymilca 2002, ch 9.

¹⁰ See Shakespeare (2006) for an extensive review of different disability perspectives on this subject

¹¹ This reaction has invariably arisen whenever we have presented our equality framework to groups of political theorists.